

**OFFICE OF THE ATTORNEY GENERAL**

**LAWRENCE G. WASDEN**

Consumer Protection Unit

650 W. State Street, Lower Level

P. O. Box 83720

Boise, ID 83720-0010

Phone: (208) 334-2424

**Idaho Certificate of Escrow Funding Compliance for 2005 Sales**

(This form is due April 30, 2006)

**Please note:** If you are a Non-Participating Manufacturer that is required to make quarterly escrow deposits, do not use this form. Instead, use the Idaho Quarterly Certificate of Escrow Funding Compliance form. See the attached instructions for further details regarding which Non-Participating Manufacturers must make quarterly escrow deposits.

**Part 1: Non-Participating Manufacturer's Identification**

Company Name: \_\_\_\_\_

Physical Address: (street address only; no post office box) \_\_\_\_\_

\_\_\_\_\_

Mailing Address (if different from above): \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Email Address: \_\_\_\_\_ Website Address: \_\_\_\_\_

Name/Title of Person Completing Certification: \_\_\_\_\_

**Part 2: Sales Year**

The sales year for this Idaho Certificate of Escrow Funding Compliance is the **calendar year 2005**. Complete this form only for calendar year 2005 sales.

**Part 3: Units Sold for Calendar Year 2005**

Indicate the number of Units Sold (an individual cigarette from a pack that bears an Idaho cigarette tax stamp or .09 ounces of roll-your-own tobacco equals one Unit Sold) by the above-named Non-Participating Manufacturer (Certifying Non-Participating Manufacturer), whether directly or through a distributor, retailer, or similar intermediary or intermediaries, for the calendar year 2005, and write that amount here:

A. \_\_\_\_\_

#### **Part 4: Escrow Payment Amount**

Calculate the appropriate escrow deposit amount. Multiply the number of Units Sold listed in part 3.A. by \$.0208176 and write that amount here.\*

A. \_\_\_\_\_

The calculated figure in 4.A. is the amount that must be deposited by April 15, 2006, on behalf of the State of Idaho in the Certifying Non-Participating Manufacturer's Qualified Escrow Fund for calendar year 2005.

#### **Part 5: Financial Institution/Escrow Information**

Name of Financial Institution: \_\_\_\_\_

Authorized Escrow Agent Contact Name and Title: \_\_\_\_\_

Physical Address: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Qualified Escrow Account No.: \_\_\_\_\_ Subaccount No. for Idaho: \_\_\_\_\_

- ☐ **Attached is a copy of the financial institution's receipt or other proof of deposit of the proper escrow payment. Pursuant to Idaho Code §39-8403(1)(c)(iv)(3) the Office of the Attorney General requires verification from the financial institution of the amount and date of deposit to be attached.**

#### **Part 6: Certification**

The Certifying Non-Participating Manufacturer certifies that (initial all four):

\_\_\_\_\_ It has previously submitted an Idaho Tobacco Product Manufacturer Certificate of Compliance to the Office of the Attorney General. Date submitted: \_\_\_\_\_;

\_\_\_\_\_ Its Qualified Escrow Fund complies with Idaho Code §§ 39-7802(f) and 39-8403(1)(c);

\_\_\_\_\_ Any escrow funds held or to be held in its Qualified Escrow Fund on behalf of the State of Idaho are or will be held in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary; and

\_\_\_\_\_

\* Idaho Code § 39-7803(b)(1) requires payments to be "adjusted for inflation." Idaho Code § 39-7802(a) defines "adjusted for inflation" as cumulative increases "in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement." For calendar year 2005 the "adjusted for inflation" amount is 24.25497% (.2425497). Multiplying the 2005 base escrow deposit amount, \$.0167539, by the adjusted for inflation rate, 24.25497%, equals the cumulative inflation adjustment amount of \$.0040637. Adding the base escrow deposit amount, \$.0167539, to the cumulative inflation adjustment amount, \$.0040637, equals \$.0208176.

\_\_\_\_\_ There is no security interest, as defined by Idaho Code § 28-1-201(35), that has been granted in or has attached or is otherwise applicable to any escrow funds held or to be held in the Certifying Non-Participating Manufacturer's Qualified Escrow Fund on behalf of the State of Idaho.

**Part 7: Authorized Designee and Representation**

This document must be signed and dated by an authorized representative of the Certifying Non-Participating Manufacturer before a notary public as follows:

Under penalty of perjury, I certify and declare that all of the statements and information contained in this Idaho Certificate of Escrow Funding Compliance for 2005 Sales, including attachments, if any, are true, correct, accurate and complete in every particular, and that I am a person authorized to bind the Certifying Non-Participating Manufacturer either under the laws of the State of Idaho or of the jurisdiction where the manufacturer resides or is organized. Any violation of these requirements is a basis for removal of the Certifying Non-Participating Manufacturer and/or its Brand Families from the Attorney General's Directory of Compliant Tobacco Product Manufacturers and Brand Families.

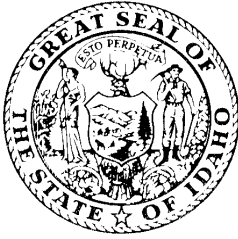
Date: \_\_\_\_\_ Authorized Designee: \_\_\_\_\_ Title: \_\_\_\_\_

Signature of Designee: \_\_\_\_\_

City/County: \_\_\_\_\_ Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2006.

Printed Name of Notary Public: \_\_\_\_\_ Signature of Notary Public: \_\_\_\_\_

Commission expires: \_\_\_\_\_ Seal:

**OFFICE OF THE ATTORNEY GENERAL****LAWRENCE G. WASDEN**

Consumer Protection Unit

650 W. State Street, Lower Level

P. O. Box 83720

Boise, ID 83720-0010

Phone: (208) 334-2424

**Instructions for Idaho Certificate of Escrow Funding Compliance for  
2005 Sales****General Information****Who must file an Idaho Certificate of Escrow Funding Compliance?**

Any Non-Participating Manufacturer whose Cigarettes (including roll-your-own cigarettes – see definitions on page 2) are sold in the State of Idaho, whether directly or through any distributor, retailer, or similar intermediary, must execute and deliver an Idaho Certificate of Escrow Funding Compliance (Idaho Escrow Certificate) to the Office of the Attorney General. An Idaho Quarterly Certificate of Escrow Funding Compliance (Idaho Quarterly Escrow Certificate) must be executed and delivered quarterly by Non-Participating Manufacturers that meet one of the following criteria: they have not previously established and funded a Qualified Escrow Fund in Idaho; they have not made any escrow deposits for more than one year; they have failed to make a timely and complete escrow deposit for any prior calendar year; they have failed to pay any judgment, including any civil penalty; or they have sold more than 1,600,000 of their Cigarettes during a quarter. Additionally, the Attorney General may require quarterly escrow deposits from a Non-Participating Manufacturer if the Attorney General has reasonable cause to believe the Non-Participating Manufacturer may not make its full required escrow deposit by April 15<sup>th</sup> of the year following the year in which the Cigarette sales were made. The Idaho Quarterly Escrow Certificate and information about its applicability are located at:

<http://www.ag.idaho.gov>.

Please note: The Idaho Escrow Certificate (or the Idaho Quarterly Escrow Certificate as applicable) is in addition to Idaho's Tobacco Product Manufacturer Certificate of Compliance that all Tobacco Product Manufacturers must execute and deliver to the Office of the Attorney General before Cigarettes of the Tobacco Product Manufacturer may be sold in the State of Idaho and annually thereafter. The Idaho Escrow Certificate and the instructions for completing it are located at the Internet address noted above.

**When is the Idaho Escrow Certificate due?**

The Idaho Escrow Certificate must be received on or before April 30<sup>th</sup> of the year following the sales year indicated.

## **To whom must the Idaho Escrow Certificate be delivered?**

Mail the original Idaho Escrow Certificate and a complete copy of all supporting documents to:

OFFICE OF THE ATTORNEY GENERAL  
Consumer Protection Unit  
650 W. State Street, Lower Level  
P. O. Box 83720  
Boise, ID 83720-0010  
Attention: Tobacco Enforcement

### **Definitions<sup>1</sup>**

- (a) "Brand Family" means all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.
- (b) "Cigarette" has the same meaning given that term in Idaho Code § 39-7802(d).
- (c) "Directory" means the Directory of Compliant Tobacco Product Manufacturers and Brand Families as provided for by Idaho Code § 39-8403(2).
- (d) "Master Settlement Agreement" has the same meaning given that term in Idaho Code § 39-7802(e).
- (e) "Non-Participating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (f) "Participating Manufacturer" has the same meaning as that term is defined in Section II(jj) of the Master Settlement Agreement and all amendments thereto.
- (g) "Qualified Escrow Fund" has the same meaning given that term in Idaho Code § 39-7802(f).
- (h) "Tobacco Product Manufacturer" has the same meaning given that term in Idaho Code § 39-7802(i).
- (j) "Units Sold" has the same meaning given that term in Idaho Code § 39-7802(j).

### **Specific Instructions**

**Part 1:      Non-Participating Manufacturer Identification.** Identify the Non-Participating Manufacturer's name, physical, mailing, email, and Website addresses and telephone and fax

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<sup>1</sup> Defined terms are capitalized throughout these instructions and the Idaho Escrow Certificate.

numbers. Also identify the name and title of the person completing the Idaho Escrow Certificate who will serve as the contact person for the manufacturer.

**Part 2:**        **Sales Year.** Use this form only for calendar year 2005 sales.

**Part 3:**        **Units Sold for Calendar Year 2005.** Write the number of Units Sold by the Non-Participating Manufacturer in Idaho for the calendar year 2005. A Unit Sold equals an individual cigarette from a pack that bears an Idaho cigarette tax stamp or .09 ounces of roll-your-own tobacco

**Part 4:**        **Escrow Payment Amount.** Multiply the number of Units Sold listed in Part 3.A. by the indicated escrow deposit rate per Unit Sold. This is the deposit to be paid into the Non-Participating Manufacturer's Qualified Escrow Fund for the calendar year 2005.

**Part 5:**        **Financial Institution.** The Non-Participating Manufacturer must identify (i) the name, address and telephone and fax numbers of the financial institution where it has established a Qualified Escrow Fund; and (ii) the account number of the Qualified Escrow Fund and the sub-account number for the benefit of Idaho. A copy of a receipt or other proof of deposit from the financial institution must be attached to the Idaho Escrow Certificate provided to the Office of the Attorney General.

**Part 6:**        **Certification** The Non-Participating Manufacturer must certify four things: (1) it has previously submitted an Idaho Tobacco Product Manufacturer Certificate of Compliance; (2) its Qualified Escrow Fund complies with Idaho Code §§ 39-7802(f) and 39-8403(1)(c)(ii); (3) any escrow funds held or to be held in its Qualified Escrow Fund on behalf of the State of Idaho are or will be held in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary; and (4) no security interest, as defined by Idaho Code § 28-1-201(35), has been granted, attached or is otherwise applicable to any escrow funds held or to be held in the Certifying Non-Participating Manufacturer's Qualified Escrow Fund on behalf of the State of Idaho.

**Part 7:** **Authorized Designee and Representation.** The person executing the Idaho Escrow Certificate must be authorized to bind the Non-Participating Manufacturer identified in Part 1. The authorized designee's name and title must be printed, and the Idaho Escrow Certificate must be executed in the presence of an authorized notary.